

108TH CONGRESS  
1ST SESSION

# H. R. 1348

To assure quality and best value with respect to Federal construction projects  
by prohibiting the practice known as bid shopping.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

Mr. KANJORSKI (for himself and Mr. JEFFERSON) introduced the following  
bill; which was referred to the Committee on Government Reform

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## A BILL

To assure quality and best value with respect to Federal  
construction projects by prohibiting the practice known  
as bid shopping.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Construction Quality  
5       Assurance Act of 2003”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Certain abhorrent and undesirable prac-  
9       tices, known as bid shopping, have arisen from time

1 to time in construction work for the Federal Govern-  
2 ment.

3 (2) Bid shopping threatens the integrity of the  
4 procurement of construction services.

5 (3) The practice of bid shopping deprives tax-  
6 payers of the full benefits of fair competition among  
7 contractors and subcontractors, and often results in  
8 poor quality of material and workmanship to the  
9 detriment of the public.

10 (4) When bid shopping occurs, the cost savings  
11 gained are not passed on to the Federal Govern-  
12 ment, but the simultaneous reductions in quality and  
13 value are passed on to the Federal Government.

14 (5) The procurement practices of the Federal  
15 Government should be modified to prohibit bid shop-  
16 ping at any level.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) CONTRACT.—The term “contract” means  
20 any contract with the Federal Government, exceed-  
21 ing \$1,000,000 in amount, for the construction, al-  
22 teration, or repair of any public building or public  
23 work of the United States.

24 (2) BID SHOPPING.—The term “bid shopping”  
25 means the practice of divulging a contractor’s or

1 subcontractor's bid or proposal or requiring a con-  
2 tractor or subcontractor to divulge its bid or pro-  
3 posal to another prospective contractor or subcon-  
4 tractor before the award of a contract or subcontract  
5 in order to secure a lower bid or proposal.

6 (3) CONTRACTOR.—The term “contractor”  
7 means an individual or entity that has been awarded  
8 or is seeking to be awarded a construction contract  
9 by the Federal Government.

10 (4) SUBCONTRACTOR.—The term “subcon-  
11 tractor” means an individual or entity with which an  
12 offeror on a contract proposes to enter into a sub-  
13 contract for manufacturing, supplying, fabricating,  
14 installing, or otherwise performing with respect to  
15 the contract, whether the work is to be performed by  
16 the subcontractor at the construction site or off the  
17 site.

18 **SEC. 4. PROHIBITION AGAINST BID SHOPPING.**

19 (a) PROHIBITION.—Neither the Federal Government,  
20 nor a contractor or subcontractor, shall participate in the  
21 practice of bid shopping with respect to a contract.

22 (b) NOTICE REQUIREMENT.—Any invitation for bid  
23 or request for proposal issued by the Federal Government  
24 shall include a clause explicitly prohibiting the practice of

1 bid shopping and specifying the penalties for violating the  
 2 prohibition against bid shopping.

3 **SEC. 5. PENALTIES.**

4 (a) IN GENERAL.—(1) A contract shall provide for  
 5 termination of the contract or the imposition of liquidated  
 6 damages in the amount described in paragraph (2) upon  
 7 a determination by the contracting officer, in accordance  
 8 with applicable provisions of the Federal Acquisition Reg-  
 9 ulation (including provisions relating to due process), that  
 10 a violation of section 4(a) has occurred.

11 (2) The amount of liquidated damages that may be  
 12 imposed pursuant to paragraph (1) is an amount equal  
 13 to the greater of 3 times—

14 (A) the final bid on the contract (before the  
 15 award of the contract) by either a contractor or sub-  
 16 contractor; or

17 (B) the price paid to the contractor or any sub-  
 18 contractor for work performed.

19 (b) GROUNDS FOR SUSPENSION OR DEBARMENT.—  
 20 The imposition of liquidated damages under subsection (a)  
 21 on a contractor or subcontractor with respect to 2 con-  
 22 tracts within a 5-year period shall be deemed to be ade-  
 23 quate evidence of a lack of integrity and business ethics  
 24 that seriously and directly affects the responsibility of a  
 25 Government contractor within the meaning of part 9.4 of

1 the Federal Acquisition Regulation (Debarment, Suspen-  
2 sion, and Ineligibility) (48 CFR 9.4).

3 **SEC. 6. IMPLEMENTATION THROUGH THE FEDERAL ACQUI-**  
4 **SITION REGULATION.**

5 Not later than 120 days after the date of the enact-  
6 ment of this Act, the Federal Acquisition Regulation shall  
7 be modified to provide appropriate solicitation provisions,  
8 contract clauses, and investigatory procedures to imple-  
9 ment this Act.

10 **SEC. 7. EFFECTIVE DATE.**

11 This Act shall apply with respect to contracts award-  
12 ed on or after the date of the beginning of the first fiscal  
13 quarter beginning more than 120 days after the date of  
14 the enactment of this Act.

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